

ESTTA Tracking number: **ESTTA643428**Filing date: **12/09/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Bear U.S.A., Inc.
Granted to Date of previous extension	12/10/2014
Address	460 Bergen Boulevard Suite 370 Palisades Park, NJ 07650 UNITED STATES
Attorney information	Timothy J. Kelly FITZPATRICK, CELLA, HARPER & SCINTO 1290 Avenue of the Americas New York, NY 10104 UNITED STATES tkelly@fchs.com, docketing@fchs.com, epagan@fchs.com Phone:2122182100

Applicant Information

Application No	86236789	Publication date	08/12/2014
Opposition Filing Date	12/09/2014	Opposition Period Ends	12/10/2014
Applicant	Bear Skn LLC PO Box 3665 Minneapolis, MN 55403 UNITED STATES		

Goods/Services Affected by Opposition

Class 025. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Mens Clothing namely, underwear, shirts, pants, hats, and socks


Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3038588	Application Date	02/26/1996
Registration Date	01/10/2006	Foreign Priority Date	NONE
Word Mark	BEAR		
Design Mark			
Description of	NONE		


Mark	
Goods/Services	Class 018. First use: First Use: 1993/05/00 First Use In Commerce: 1993/11/00 all purpose athletic, sport and duffel bags Class 025. First use: First Use: 1993/05/00 First Use In Commerce: 1993/11/00 clothing, namely parkas, jackets, shirts, hats, headbands and footwear


U.S. Registration No.	2286759	Application Date	04/07/1998
Registration Date	10/12/1999	Foreign Priority Date	NONE
Word Mark	BABY BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1999/01/01 First Use In Commerce: 1999/01/01 Clothing, namely, parkas, jackets, sweatshirts and shorts		

U.S. Registration No.	2559155	Application Date	04/07/1998
Registration Date	04/09/2002	Foreign Priority Date	NONE
Word Mark	BABY BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 2001/08/00 First Use In Commerce: 2001/08/00 Clothing, namely, [footwear,] shirts,hats, [pants, socks,] gloves, mittens, scarves and caps		


U.S. Registration No.	2556355	Application Date	04/07/1998
Registration Date	04/02/2002	Foreign Priority Date	NONE
Word Mark	BABY BEAR		
Design Mark			
Description of	NONE		


Mark	
Goods/Services	Class 025. First use: First Use: 2001/10/00 First Use In Commerce: 2001/10/00 Clothing, namely, parkas, shirts, hats,sweatshirts, jackets [, pants, shorts,socks, gloves, mittens, scarves and caps]

U.S. Registration No.	2285696	Application Date	01/24/1995
Registration Date	10/12/1999	Foreign Priority Date	NONE
Word Mark	BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1994/09/00 First Use In Commerce: 1994/09/00 clothing, namely, cold weather hats, headbands, and footwear (excluding golf shoes)		

U.S. Registration No.	2282358	Application Date	01/24/1995
Registration Date	10/05/1999	Foreign Priority Date	NONE
Word Mark	BEAR		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1994/09/07 First Use In Commerce: 1994/12/17 clothing, namely parkas and jackets		

U.S. Registration No.	2559096	Application Date	10/10/1997
Registration Date	04/09/2002	Foreign Priority Date	NONE
Word Mark	BEAR USA		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 018. First use: First Use: 2001/04/00 First Use In Commerce: 2001/04/00 All purpose athletic, sport and duffel bags

U.S. Registration No.	2700829	Application Date	02/26/1996
Registration Date	03/25/2003	Foreign Priority Date	NONE
Word Mark	BEAR USA		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 025. First use: First Use: 1996/04/00 First Use In Commerce: 1996/04/00 Parkas and jackets		

U.S. Registration No.	2997379	Application Date	03/26/2004
Registration Date	09/20/2005	Foreign Priority Date	NONE
Word Mark	BEAR USA		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 025. First use: First Use: 1996/04/00 First Use In Commerce: 1996/04/00 Clothing, namely parkas and jackets

U.S. Registration No.	2384568	Application Date	04/23/1998
Registration Date	09/12/2000	Foreign Priority Date	NONE

Word Mark	BEAR MOUNTAIN
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 1993/06/12 First Use In Commerce: 1993/06/12 Clothing, namely parkas and vests
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U.S. Registration No.	2276955	Application Date	08/02/1994
Registration Date	09/14/1999	Foreign Priority Date	NONE

Word Mark	BEAR U.S.A., INC.
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Design Mark	
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Description of Mark	NONE
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Goods/Services	Class 025. First use: First Use: 1994/09/07 First Use In Commerce: 1994/10/17 clothing, namely parkas and jackets
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/tjk/
Name	Timothy J. Kelly
Date	12/09/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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BEAR U.S.A., INC.,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No.:
	:	Serial No.: 86236789
BEAR SKN, L.L.C.,	:	
	:	
Applicant.	:	
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NOTICE OF OPPOSITION

In the matter of pending trademark application Serial No. 86236789, for the mark “Bear Skn” (hereinafter “Applicant's Alleged Mark”) filed in International class 25 for “Men’s Clothing namely, underwear, shirts, pants, hats, and socks” (hereinafter “Applicant’s Goods”), filed by Applicant Bear Skn L.L.C., a Minnesota limited liability company with a business address at P.O. Box 3665, Minneapolis, MN 55403 (hereinafter, “Applicant”), and published in the Trademark Official Gazette of August 12, 2014, Opposer Bear U.S.A., Inc., a corporation organized and existing under the laws of the State of New Jersey and having a place of business at 460 Bergen Boulevard, Suite 370, Palisades Park, New Jersey 07650 (hereinafter “Bear” or “Opposer”), believes it will be damaged by the registration of such mark and hereby opposes same. As grounds for its opposition, Bear alleges as follows:

1. Opposer, Bear U.S.A., Inc., is a corporation organized and existing under the laws of the State of New Jersey and having a place of business at 460 Bergen Boulevard, Suite 370, Palisades Park, New Jersey 07650.

2. Opposer is and has been for nearly two decades an internationally known manufacturer and distributor of clothing, footwear and other items.

3. Since at least as early as 1993, and well prior to the filing date of the intent-to-use application opposed herein, Opposer Bear has used, advertised and promoted in interstate commerce its distinctive “BEAR” trademarks on or in connection with its products, including its clothing products. Among the trademarks used, advertised and promoted by Bear over the years are: BEAR, BEAR MOUNTAIN, BABY BEAR, BEAR U.S.A., and BEAR U.S.A. and design. These trademarks (together with the others identified, *infra*) are collectively referred to as the “BEAR Trademarks”.

4. Bear has sold many millions of dollars worth of clothing, footwear and other products under its BEAR Trademarks, and has spent many tens of thousands of dollars advertising and promoting its BEAR Trademarks and the products sold under those trademarks in interstate commerce and throughout the world.

5. By virtue of Opposer Bear’s aforesaid advertising, promotion and extensive sales, Bear has acquired valid and enforceable trademark rights in its distinctive BEAR Trademarks for its products, and Opposer’s BEAR Trademarks have come to represent an extremely valuable goodwill, which is owned by Bear. Further, as a result of the foregoing sales, advertising and promotion, the distinctive BEAR Trademarks have become famous and exclusively associated with Opposer, and Opposer has acquired an eminent reputation and valuable goodwill in them. Such fame and eminent reputation pre-date the date of first use alleged in the application opposed herein.

6. In addition to Bear’s common law rights in its BEAR Trademarks, Bear is also the owner of a number of Federal Registrations for its trademarks. These

registrations include, among others, Registration No. 3,038,588 for the mark BEAR; Registration Nos. 2,286,759 (incontestable and renewed), 2,559,155 (incontestable and renewed), and 2,556,355 (incontestable and renewed) for the mark BABY BEAR; Registration No. 2,285,696 for the mark BEAR and Design (incontestable and renewed); Registration No. 2,282,358 for the mark BEAR and Design (incontestable and renewed); Registration Nos. 2,559,096 (incontestable and renewed), 2,700,829 (incontestable and renewed), and 2,997,379 (incontestable) for various BEAR U.S.A. and Design marks; Registration No. 2,384,568 for the mark BEAR MOUNTAIN (incontestable and renewed); and Registration No. 2,276,955 for the mark BEAR U.S.A., Inc. (incontestable and renewed). The aforementioned registrations also comprise the "BEAR Trademarks." Opposer will make status and title copies of the foregoing registrations of record during its Testimony Period.

7. Because the BEAR Trademarks and the goods sold, advertised and promoted by Bear under those trademarks are exclusively associated with Bear, the registration and use by Applicant, for the goods claimed in the application, of the mark "Bear Skn" -- which mark incorporates, as the initial portion of the mark, Opposer's registered trademark BEAR and thus the primary source-identifying element of Bear's BEAR Trademarks -- will inevitably cause confusion in the minds of the public, leading the public to believe that Applicant's clothing products emanate from Opposer or that Applicant is in some way associated with or connected to Opposer, when, in fact, no such relationship exists. Further, in view of the similarities between Applicant's and Opposer's marks and the nature of the clothing to be sold by Applicant under its alleged mark on the one hand, and the goods sold by Bear under its BEAR Trademarks on the

other, registration of Applicant's Alleged Mark in connection with goods listed in the application opposed herein is likely to mislead or deceive consumers as to the source, origin or sponsorship of such goods.

8. For the foregoing reasons, Opposer will be damaged by the registration of the mark shown in the application opposed herein because, *inter alia*, the public and the trade will be caused to believe that the goods sold under Applicant's Alleged Mark are produced or licensed by Opposer, or are produced by Applicant under a mark confusingly similar to Opposer's BEAR Trademarks, with the authorization, permission or sponsorship of Opposer.

9. For the foregoing reasons, Applicant is not entitled to registration of its alleged mark "Bear Skn" for the goods set forth in the application opposed herein, and is not entitled to the exclusive use thereof.

WHEREFORE, Opposer respectfully requests that this opposition be sustained, and that registration of the mark "Bear Skn" (Serial No. 86236789), be refused.

Dated: December 9, 2014

Respectfully submitted,

By: 

Timothy J. Kelly
FITZPATRICK, CELLA, HARPER
& SCINTO
1290 Avenue of the Americas
New York, New York 10104
(212) 218-2100

Attorneys for Opposer
Bear U.S.A., Inc.

CERTIFICATE OF SERVICE

I, Timothy J. Kelly, hereby certify that on this the 9th day of December, 2014, the foregoing Notice of Opposition to United States Trademark Application Serial No. 86236789 in the name of Bear Skn, L.L.C., was served upon Applicant (the correspondent identified in the application according to Trademark Office records) at the address set forth below by First Class Mail, postage prepaid:

BEAR SKN LLC
PO BOX 3665
MINNEAPOLIS, MINNESOTA 55403-0665



Timothy J. Kelly